

### **REMARKS**

The Final Office Action mailed May 15, 2008 has been received and reviewed. Each of claims 1-4 and 6-36 stands rejected. Claims 1, 12, and 25 have been amended herein. Care has been exercised to introduce no new subject matter. Reconsideration of the above-identified application in view of the above amendments and the following remarks is respectfully requested.

#### **Rejections based on 35 U.S.C. § 103**

##### **A.) Applicable Authority**

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some clear and explicit articulation as to why the invention would have been obvious to one of ordinary skill in the art. Mere conclusory statements will not sustain an obviousness rejection. *KSR v. Teleflex*, 127 S. Ct. 1727 (2007).

B.) Obviousness Rejection Based on U.S. Patent No. 7,007,025 to Nason (hereinafter “Nason”) in view of U.S. Patent Application Publication No. 2004/0001544 to Mehrotra (hereinafter “Mehrotra”).

Claims 1, 3, 4, and 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Nason in view of Mehrotra. As Nason and Mehrotra, whether taken alone or in combination, fail to teach, suggest or render obvious all of the limitations of each of the rejected claims as herein amended, a *prima facie* case of obviousness has not been established. Applicant therefore respectfully traverses this rejection, as hereinafter set forth, and respectfully requests withdrawal of the rejection.

Independent claim 1, as herein amended, recites a display driver to display a file stream, comprising: a display driver module having a bitmapped frame buffer, the display driver module controlling the display, and a decoder to transform the file stream and store the transformed file stream in the bitmapped frame buffer of the display driver module, the display driver adapted to process data in the bitmapped frame buffer to generate the display without requiring intermediary processes, wherein the file stream contains metadata to change display features of the file stream, said display features comprising at least one of: video refresh rate data, resolution data, or close captioning data.

By way of contrast, Nason is directed to enhancing the security of data being input and displayed on a client computer system in order to prevent unauthorized attempts by applications to obtain the data. *See, Nason* at col. 1, lines 55-65. Nason accomplishes this through the use of data obfuscation techniques and security-enhanced drivers. *Id.*

Mehrotra is generally directed to motion estimation and motion compensation through the use of a screen-capture encoder, thereby improving the efficiency of compression of screen-captured video. *See, Mehrotra* at ¶¶0020-0022. In Mehrotra, a screen-capture encoder performs motion estimation using a distortion measure based upon the count of equal and unequal pixels in two regions, and then sub-samples the distortion measure to speed up motion

estimation. *Id.* A screen-capture decoder performs motion compensation for pixels with different values at corresponding locations in a current frame and a reference frame, but not for all of the pixels of the current frame. *Id.*

The Office has relied primarily on column 6, lines 28-54 and column 7, lines 18-45 of Nason in the rejection of all of the features of claim 1, except those dealing with the use of metadata in the file stream. *See, Final Office Action* at pages 2-3. In the rejection of the remaining features recited in independent claim 1, the office cited paragraph 60 of Mehrotra for support. *Id.* at page 4. Applicant respectfully disagrees with both assertions.

With regard to Nason, claim 1 has been amended to recite that the display driver processes data in the bitmapped frame buffer to generate the display without requiring intermediary processes. Nason provides that a security enhanced display driver is utilized that supports techniques to secure data that is temporarily stored in the VRAM prior to display on the client device. *Nason* at col. 7, lines 45-58. Nason therefore continues to require that intermediary processes be performed on data that is stored in the VRAM. This is in direct contrast to claim 1, as herein amended.

With respect to Mehrotra, Applicant respectfully submits that it does not teach the features of claim 1 for which it is relied upon. The cited portions of Mehrotra are directed only to a screen capture module that permits a user to set high-level options for a capture session, such as quality, bit rate, or buffer size. No mention is made of encoding metadata to change display features of the file stream, as recited in claim 1.

Accordingly, for at least the reasons stated above, Applicant respectfully requests entry of the present amendments and withdrawal of the 35 U.S.C. § 103(a) rejection of

independent claim 1. Claim 1 is believed to be in condition for allowance and such favorable action is hereby respectfully requested.

Claims 3, 4, and 9-11 depend, either directly or indirectly, from independent claim 1 and are patentable for at least the reasons of claim 1. Moreover, each includes additional limitations not found in the cited references in the context of claim 1. For example, claim 3 recites wherein the display driver is adapted to perform the steps comprising: determining if a user has authorization if digital rights management has been applied to the file stream; and if the user has authorization; performing the steps of transforming the file stream and storing the transformed file stream in the bitmapped frame buffer. The features of claim 3 are not taught or suggested in Nason or Mehrotra. Nason is directed to data obfuscation and de-obfuscation techniques, which are not believed to be analogous to digital rights management.

As such, withdrawal of the 35 U.S.C. §103(a) rejections of claims 3, 4, and 9-11 is respectfully requested. Each of claims 3, 4, and 9-11 is believed to be in condition for allowance and such favorable action is respectfully requested.

C.) Obviousness rejection based on Nason and Mehrotra and further in view of U.S. Patent 6,714,650 to Maillard (hereinafter "Maillard").

Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Nason and Mehrotra and further in view of Maillard. As Nason, Mehrotra, and Maillard, whether taken alone or in combination, fail to teach, suggest or render obvious all of the limitations of the rejected claim, a *prima facie* case of obviousness has not been established. Applicant therefore respectfully traverses this rejection, as hereinafter set forth.

Claim 2 depends directly from independent claim 1 and is patentable for at least the reasons of claim 1. It is respectfully submitted that a *prima facie* case of obviousness based

upon Nason, Mehrotra, and Maillard has not been established for claim 2 for at least the above-cited reason. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claims from which it depends is obvious); *see also*, MPEP § 2143.03. Moreover, the addition of Maillard does not cure the deficiencies of Nason and Mehrotra with respect to their failure to teach all of the features of independent claim 1, and nor is it relied upon to do so.

As such, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 2 is respectfully requested. Claim 2 is believed to be in condition for allowance and such favorable action is respectfully requested.

D.) Obviousness rejection based on Nason and Mehrotra and further in view of U.S. Patent 7,224,891 to Jam (hereinafter “Jam”).

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nason and Mehrotra and further in view of Jam. As Nason, Mehrotra, and Jam, whether taken alone or in combination, fail to teach, suggest or render obvious all of the limitations of each of the rejected claims, a *prima facie* case of obviousness has not been established. Applicant therefore respectfully traverses this rejection, as hereinafter set forth.

Claims 6-8 depend directly from independent claim 1 and are patentable for at least the reasons of claim 1. It is respectfully submitted that a *prima facie* case of obviousness based upon Nason, Mehrotra, and Jam has not been established for claims 6-8 for at least the above-cited reasons. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claims from which it depends is obvious); *see also*, MPEP § 2143.03. Moreover, the addition of Jam does not cure the deficiencies of Nason and Mehrotra

with respect to their failure to teach all of the features of independent claim 1, and nor is it relied upon to do so.

As such, withdrawal of the 35 U.S.C. § 103(a) rejection of claims 6-8 is respectfully requested. Claims 6-8 are believed to be in condition for allowance and such favorable action is respectfully requested.

E.) Obviousness Rejection Based on Maillard in view of Jam.

Claims 12-36 have been rejected under 35 U.S.C. §103(a) as being obvious over Maillard in view of Jam. As Maillard and Jam, whether taken alone or in combination, fail to teach, suggest or render obvious the rejected claims as herein amended, a *prima facie* case of obviousness has not been established. Applicant therefore respectfully traverses this rejection, as hereinafter set forth, and respectfully requests withdrawal of the rejection.

Independent claim 12, as herein amended, recites a method to drive a display driver of an encoded file stream comprising the steps of: receiving the encoded file stream; transforming the encoded file stream into a format of the display driver, thereby generating a transformed file stream, wherein transforming the encoded file stream includes changing the file format of the file stream; and-storing the transformed file stream in the bitmapped frame buffer of the display driver.

By way of contrast, Maillard is directed to a system for controlling the recording of received digital data by users to minimize the risk of pirated copies being made. *See, Maillard Reference*, at col. 1, lines 62-67. Maillard accomplishes this by scrambling the data before transmission to the user and requiring a control word to unscramble the data after it has been received by the user. *Id.* at col. 2, lines 1-12.

The Office cites to col. 2, lines 31-43 for support of the capability of Maillard to transform the encoded file stream into a format of the display driver, thereby generating a transformed file stream. Maillard only discloses a standard type of receiver/decoder adapted to receive broadcasted audio and/or visual data. *Id.* at col. 2, lines 31-35.

The Office takes the position that transforming a file format and descrambling a signal are synonymous. Applicant respectfully disagrees. For example, scrambling is defined by *Newton's Telecom Dictionary*, 23<sup>rd</sup> Ed., as "traditionally defined in the science of cryptology as an analog method of concealing communications signals which uses the process of heterodyne, band division, transposition, or signal inversion." *Newton's* at page 814. Descrambling would therefore include the reversal of the methods used to conceal the communications. Claim 12 is directed, in part, to the transforming of file streams into a format of a display driver. Further, no mention is made either in the definition of scrambling cited in *Newton's* or Maillard of changing the format of a file. Rather, it is submitted that scrambling uses different processes to manipulate the contents of a file, but does not change the format of the file. Manipulating the contents of a file and changing the format of a file are two entirely different processes.

Claim 12, as herein amended, recites transforming the encoded file stream into a format compatible to the display driver, wherein transforming the encoded file stream includes changing the file format of the file stream. Maillard makes no mention, either expressly or inherently, of transforming the encoded file stream into a format of the display driver by changing the file format of the file stream.

Accordingly, it is respectfully submitted that the Maillard and Jam references, whether alone or in combination, fail to teach or suggest all of the limitations of amended independent claim 12 and thus, a *prima facie* case of obviousness cannot be established for this

claim based on the Jam and Maillard references. *See, In re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991). Applicant respectfully requests withdrawal of the rejection of independent claim 12 under 35 U.S.C. §103(a). Independent claim 12 is believed to be in condition for allowance and such favorable action is respectfully requested

Claims 13-24 depend, either directly or indirectly, from independent claim 12 and are patentable for at least the reasons of claim 12. It is respectfully submitted that a *prima facie* case of obviousness based upon the Jam and Maillard references has not been established for claims 13-24 for at least the above-cited reasons. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claims from which it depends is obvious); *see also*, MPEP § 2143.03.

Moreover, each of claims 13-24 include additional features not found in the cited references in the context of claim 12. For example, claim 19 recites wherein the display driver is adapted to perform the steps comprising: determining if a user has authorization if digital rights management has been applied to the file stream; if the user has authorization, performing the steps of transforming the file stream and storing the transformed file stream in the bitmapped frame buffer; and dropping the file stream without performing the steps of transforming the file stream into a format of the display driver module and storing the transformed file stream in the bitmapped frame buffer if the user does not have authorization. The features of claim 19 are not taught or suggested in Jam or Maillard. As such, withdrawal of the 35 U.S.C. §103(a) rejections of claims 13-24 is respectfully requested. Each of claims 13-24 is believed to be in condition for allowance and such favorable action is respectfully requested.

Independent claim 25 recites a method to apply digital rights management of data from the point of capture to the point of rendering comprising the steps of: capturing the data;



storing the data directly into a frame buffer of an encoder; transforming the data in the frame buffer into an encoded media file; applying digital rights management to the encoded media file; transmitting the encoded media file to a rendering device; unwrapping the digital rights management applied to the encoded media file; decoding the encoded media file into a driver frame buffer, wherein decoding comprises executing a decoding algorithm to acquire a full bandwidth rendering; and generating commands to control display components using data in the driver frame buffer.

By way of contrast, Maillard is directed to a system for controlling the recording of received digital data by users to minimize the risk of pirated copies being made. *See, Maillard*, at col. 1, lines 62-67. Maillard accomplishes this by scrambling the data before transmission to the user and requiring a control word to unscramble the data after it has been received by the user. *Id.* at col. 2, lines 1-12.

The references fail to teach each and every element of claim 25. First, claim 25 includes an element of storing the data directly into a frame buffer of an encoder. Applicants respectfully submit that the references do not teach such an element and the Office fails to clearly articulate how this element is taught by the references. For example, in rejecting claim 25, the element is simply not addressed. *Final Office Action* at page 23-25. In addition, Applicants note that an element for “storing the data directly into a frame buffer of an encoder” is also recited in claim 27. With respect to claim 27, the Office states “Maillard fails to teach of storing the data directly into a frame buffer of an encoder.” *Final Office Action* at page 27. In contrast, in responding to Applicants’ prior arguments, the Office indicates that Maillard may teach storing data directly into a frame buffer. *Final Office Action* at page 38. However, before citing to Maillard, the Office construes the element by referencing FIG. 4 of the as-filed

*Specification.* Applicants respectfully submit that this is a misinterpretation as FIG. 4 is directed to a method that is performed for decoding and displaying a file stream, not storing the data. The Office states that the figure does not show that a frame buffer has been used to directly store data, and Applicants submit that this is true only because the figure is directed to a different set of steps of the method.

The Office contends that demultiplexer/descrambler 30 and host CPU memory 20 of FIG. 2 in Maillard teach the storing of data directly into a frame buffer of an encoder. It is respectfully submitted that neither Jam nor Maillard teach the storing of data directly into a frame buffer of an encoder.

Further, the items relied upon in FIG. 2 of Maillard, demultiplexer/descrambler 30 and host CPU memory 20, are not equivalent to the storing of captured data directly into a frame buffer of an encoder. To the contrary, the items in FIG. 3 relied upon by the office are directed to the demultiplexing and descrambling of a broadcast signal. *Maillard* at col. 6, lines 22-44. This is in contrast to storing the captured data directly into a frame buffer, as recited in independent claim 25. The portions of Maillard relied upon in the rejection of these features of claims 25 are only directed to the descrambling of video signals, and not the storing of captured data directly into a frame buffer of an encoder. When claim 25 is read as a whole, it is evident that data is first captured and stored into a frame buffer of an encoder before it is later decoded and displayed.

The Office cites col. 1, lines 7-24; col. 2, lines 19-30; col. 6, lines 4-23; and col. 6, lines 13-22 for support of Maillard's capability of applying digital rights management to the encoded media file. It is respectfully submitted that these sections do not teach the applying of digital rights management to the encoded media file. Maillard is directed to the transmission of

scrambled digital data. *Id.* at col. 1, lines 7-24. Digital rights management is defined in the *Specification* as a set of technologies that content owners can use to protect their copyrighted materials and limit access to those materials to those parties having acquired a proper license to download the media content. *See, Specification*, at ¶ 0033. The transmission of scrambled digital data does not teach applying digital rights management to an encoded file.

The Office cites to Fig. 2 and col. 2, lines 18-43 for support for Jam's capability of transforming the data in the frame buffer into an encoded media file. Jam is at best directed to the transforming of media file into a frame buffer. *Id.* This is the exact opposite of transforming data in the frame buffer into an encoded media file. Jam at best teaches *decoding* a media file into a frame buffer, but does not teach the *encoding* of a media file into a frame buffer. The steps of encoding and decoding a media file into a frame buffer are not equivalent or analogous, rather they are the exact opposite of each other and require a materially different disclosure to accomplish. Disclosure of decoding a media file does not inherently disclose the encoding of a media file by the same reference.

Claim 25 has been amended to recite a step of decoding the encoded media file into a driver frame buffer, wherein decoding comprises executing a decoding algorithm to acquire a full bandwidth rendering. Jam's figures and description merely describe that a decoder can output decoded data to a frame buffer and a transcoder can output transcoded data to a frame buffer. *Jam* at col. 5, ln. 21-42. Applicant's respectfully submit that Jam fails to teach this element of claim 25.

Accordingly, it is respectfully submitted that the Maillard and Jam references, whether alone or in combination, fail to teach or suggest all of the limitations of independent claim 25 and thus, a *prima facie* case of obviousness cannot be established for this claim based

on the Maillard and Jam references. *See, In re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991). Applicant respectfully requests withdrawal of the rejection of independent claim 25 under 35 U.S.C. §103(a). Independent claim 25 is believed to be in condition for allowance and such favorable action is respectfully requested.

Claims 26-36 depend, either directly or indirectly, from independent claim 25 and are patentable for at least the reasons of claim 25. It is respectfully submitted that a *prima facie* case of obviousness based upon the Jam and Maillard references has not been established for claims 26-36 for at least the above-cited reasons. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claims from which it depends is obvious); *see also*, MPEP § 2143.03.

Moreover, each of claims 26-36 include additional limitations not found in the cited references in the context of claim 25. For example, claim 27 recites wherein the steps of capturing data, storing the data directly into a frame buffer of an encoder, transforming the data in the frame buffer into an encoded media file, and applying digital rights management to the encoded media file includes performing the steps of capturing data, storing the data directly into a frame buffer of an encoder, transforming the data in the frame buffer into an encoded media file, and applying digital rights management to the encoded media file on a same substrate. The features of claim 27 are not taught or suggested in Jam or Maillard.

As such, withdrawal of the 35 U.S.C. §103(a) rejections of claims 26-36 is respectfully requested. Each of claims 26-36 is believed to be in condition for allowance and such favorable action respectfully requested.

### **CONCLUSION**

For at least the reasons stated above, claims 1-4 and 6-36 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections, entry of the amendments provided herein, and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or [adobrien@shb.com](mailto:adobrien@shb.com) (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

/ANDREW D. O'BRIEN/

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Andrew D. O'Brien  
Reg. No. 57,064

ADOZ/tq  
SHOOK, HARDY & BACON L.L.P.  
2555 Grand Blvd.  
Kansas City, MO 64108-2613  
816-474-6550